

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
DINO ANTOLINI, *individually and on behalf of all* :
others similarly situated, :

Plaintiff, :

-v- :

ZORBX INC., DEBBIE MABROUK, and ISSA :
MABROUK, :

Defendants. :
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21-CV-11081 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

Upon review of the parties' motion papers, and for reasons to be explained orally at a conference to be held by telephone on **August 2, 2022, at 3:30 p.m.**, Defendants' motion to dismiss is GRANTED in part and DENIED in part. Specifically, the motion is GRANTED as to:

- All claims against Issa and Debbie Mabrouk for lack of personal jurisdiction;
- Plaintiff's request for injunctive relief for lack of standing; and
- Plaintiff's unjust enrichment claim for failure to state a claim.

Defendants' motion is otherwise DENIED. Plaintiff is granted leave to amend as to the Mabrouks but denied leave to amend to cure the other dismissed claims.

To access the conference, counsel should call **888-363-4749** and use access code **5421540#**. Members of the press and public may call the same number, but will not be permitted to speak during the conference. The parties are reminded to follow the procedures for teleconferences described in the Court's Individual Rules and Practices for Civil Cases, which are available at <https://nysd.uscourts.gov/hon-jesse-m-furman>. Among other things, those

procedures require counsel to provide advance notice of who will participate in the conference and the telephone numbers they will use to participate.

The parties should be prepared to treat the conference as the initial pretrial conference. To that end, no later than **Thursday, July 28, 2022**, counsel shall confer regarding settlement and each of the other subjects to be considered at a Federal Rule of Civil Procedure 16 conference. By the **same date**, counsel shall, in accordance with Paragraph 2.D of the Court's Individual Rules and Practices, file a joint letter, the contents of which are described below, as well as a proposed Civil Case Management Plan and Scheduling Order attached as an exhibit to the joint letter. The parties shall use this Court's form Proposed Civil Case Management Plan and Scheduling Order, which is available at <https://www.nysd.uscourts.gov/hon-jesse-m-furman>. Finally, unless and until the Court orders otherwise, Defendant ZORBX Inc. shall file its answer to the remaining claims **within two weeks of the date of this Order**.

The parties' joint letter shall not exceed five (5) pages, and shall provide the following information in separate paragraphs:

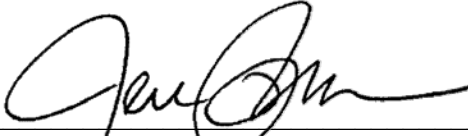
- (1) A brief description of any discovery that has already taken place and of any discovery that is necessary for the parties to engage in meaningful settlement negotiations;
- (2) A list of all prior settlement discussions, including the date, the parties involved, and the approximate duration of such discussions, if any;
- (3) A statement confirming that the parties have discussed the use of alternate dispute resolution mechanisms and indicating whether the parties believe that (a) a settlement conference before a Magistrate Judge; (b) participation in the District's Mediation Program; and/or (c) retention of a privately retained mediator would be appropriate and, if so, when in the case (*e.g.*, within the next sixty days; after the deposition of plaintiff is completed; after the close of fact discovery; etc.) the use of such a mechanism would be appropriate; and
- (4) Any other information that the parties believe may assist the Court in advancing the case to settlement or trial, including, but not limited to, a description of any dispositive issue or novel issue raised by the case.

Counsel should be prepared to discuss the foregoing at the conference, as well as the implications, if any, of Judge Gardephe's likely acceptance of Plaintiff's counsel's recent guilty plea in *United States v. Finkelstein*, 21-CR-217 (PGG).

The Clerk of Court is directed to terminate Issa and Debbie Mabrouk as Defendants and to terminate ECF No. 24.

SO ORDERED.

Dated: July 22, 2022
New York, New York



JESSE M. FURMAN
United States District Judge